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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

HERITAGE PACIFIC FINANCIAL, LLC
D/B/A HERITAC PACIFIC FINANCIAL,
a Texas Limited Liability Company,

Plaintiff,

vs.

JAMES HAGUE, et al.,

Defendants.

CASE NO. SACV 09-01466 (RNBx)

**DEFENDANT CHARLENE Y. CHAO'S
NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, PARTIAL
SUMMARY JUDGMENT**

[Filed Concurrently With: Memorandum of
Points and Authorities; Declarations of
Jayson Q. Marasigan and Charlene Y.
Chao; Request for Judicial Notice;
Statement of Uncontroverted Facts and
Conclusions of Law]

Date: July 12, 2010
Time: 10:00 a.m.
Crtrm: 10D

Judge: Andrew J. Guilford
Magistrate Judge: Robert N. Block
Trial Date: December 14, 2010
Complaint Filed: December 11, 2009

AND RELATED CROSS-ACTIONS

**TO THE COURT, ALL PARTIES, AND/OR THEIR ATTORNEYS OF
RECORD:**

PLEASE TAKE NOTICE that on July 12, 2010, at 10:00 a.m., or as soon
thereafter as the matter may be heard by the above-entitled Court, located in Courtroom
10D of the United States District Court, Central District of California – Southern Division,
411 W. Fourth St., Santa Ana, CA 92701-4516, Defendant Charlene Y. Chao (“Chao”)

DEFENDANT CHAO'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE, PARTIAL SUMMARY JUDGMENT

1 will move this Court for summary judgment or, in the alternative, summary adjudication of
2 issues pursuant to Federal Rules of Civil Procedure rule 56 because there is no genuine
3 issue as to any material fact and Chao is entitled to summary judgment as a matter of law.
4 Specifically, Chao moves the Court for an order as follows:

5 1. For summary judgment in favor of Chao and against Plaintiff Heritage
6 Pacific Financial, LLC d/b/a Heritage Pacific Financial on the grounds that no triable issue
7 of material facts exists and Chao is entitled to judgment as a matter of law. Chao also
8 moves for costs of suit incurred herein and such other relief as may be just.

9 2. Alternatively, if for any reason summary judgment cannot be had, for partial
10 summary judgment (summary adjudication of issues) as to the following causes of action
11 contained in Plaintiff's complaint:

12 **ISSUE 1: CHAO IS ENTITLED TO PARTIAL SUMMARY JUDGMENT ON**
13 **PLAINTIFF'S FIRST CAUSE OF ACTION FOR BREACH OF CONTRACT**

14 Chao seeks partial summary judgment on Plaintiff's first cause of action for breach
15 of contract on the grounds that the undisputed material facts demonstrate that the claim
16 violates California's anti-deficiency statutes (California Code of Civil Procedure §§ 580b,
17 580d, and 726(f),(g)).

18 **ISSUE 2: CHAO IS ENTITLED TO PARTIAL SUMMARY JUDGMENT ON**
19 **PLAINTIFF'S SECOND CAUSE OF ACTION FOR INTENTIONAL**
20 **MISREPRESENTATION**

21 Chao seeks partial summary judgment on Plaintiff's second cause of action for
22 intentional misrepresentation on the grounds that the undisputed material facts demonstrate
23 that the claim violates California's anti-deficiency statutes (California Code of Civil
24 Procedure §§ 580b, 580d, and 726(f),(g)).

25 **ISSUE 3: CHAO IS ENTITLED TO PARTIAL SUMMARY JUDGMENT ON**
26 **PLAINTIFF'S THIRD CAUSE OF ACTION FOR FRAUDULENT**
27 **CONCEALMENT**

28 Chao seeks partial summary judgment on Plaintiff's third cause of action for

1 fraudulent concealment on the grounds that the undisputed material facts demonstrate that
 2 the claim violates California's anti-deficiency statutes (California Code of Civil Procedure
 3 §§ 580b, 580d, and 726(f),(g)).

4 **ISSUE 4: CHAO IS ENTITLED TO PARTIAL SUMMARY JUDGMENT ON**
 5 **PLAINTIFF'S FOURTH CAUSE OF ACTION FOR NEGLIGENT**
 6 **MISREPRESENTATION**

7 Chao seeks partial summary judgment on Plaintiff's fourth cause of action for
 8 negligent misrepresentation on the grounds that the undisputed material facts demonstrate
 9 that the claim violates California's anti-deficiency statutes (California Code of Civil
 10 Procedure §§ 580b, 580d, and 726(f),(g)).

11 In conformance with Local Rule 7-3, counsel for Chao contacted counsel for
 12 Plaintiff to discuss the substance of the instant motion for summary judgment on April 29,
 13 2010 and continuing thereafter. Despite an exchange of numerous correspondences
 14 regarding the issue, the parties were unable to reach a resolution which eliminates the
 15 necessity of a hearing.

16 This motion is based on this notice of motion and motion; the memorandum of
 17 points and authorities filed herewith; the declarations of Jayson Q. Marasigan and
 18 Charlene Y. Chao; the separate statement of uncontroverted facts and conclusions of law;
 19 the request for judicial notice; all of the pleadings and papers on file; any matter that may
 20 be presented in reply to any opposition filed by Plaintiff; and on any other matter that may
 21 be presented to the Court at the time of the hearing.

22
 23 DATED: June 2, 2010

DACK MARASIGAN, LLP
 MARTIN E. DACK
 JAYSON Q. MARASIGAN

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 26 By: 
 27 JAYSON Q. MARASIGAN
 Attorneys for Defendant Charlene Y. Chao
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